

ORDINANCE NO. 11-10

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" TO PROVIDE FOR MODIFICATION OF THE MEMBERSHIP AND MEMBERSHIP REQUIREMENTS OF THE HISTORIC ARCHITECTURAL REVIEW COMMISSION BY AMENDING SECTION 90-127, MEMBERSHIP, TERMS AND REMOVAL; SECTION 90-128, VACANCIES, AND 90-135 QUORUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the land development regulations in accordance with certain procedures and criteria; and

WHEREAS, the Planning Board held a noticed public hearing on June 29, 2011, and based on the consideration of recommendations by the City planner, city attorney, building official and other information, recommended approval of the proposed amendments herein; and

WHEREAS, the City Commission held a noticed public hearing on July 19, 2011 and August 2, 2011 and in its deliberations considered the criteria identified in section 90-521 of the Code of Ordinances; and

WHEREAS, the City Commission has determined that the proposed amendments are consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the

effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest; and

**WHEREAS**, the City Commission has determined that it is in the best interests of its citizens and visitors alike to have a minimum of four professional members and to increase the regular membership of the historical architectural review commission from five members to seven.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That section 90-127 90 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 90-127. Membership, terms and removal.**

(a) The historic architectural review commission shall

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\*(Coding: Added language is underlined; deleted language is ~~struck through~~)

consist of ~~five~~ seven residents of the city or who shall have a business, employment or profession located in the city and reside in the lower keys from Key West to Big Coppitt Key. Members of the historic architectural review commission shall maintain their qualifications consistent with this section for the duration of their membership. The members serving on the historic architectural review commission upon adoption of this ordinance shall continue in office, subject to the other provisions in this code until the expiration of their term. Except for the mayoral architectural appointment, the four current remaining regular seats and the two current alternate seats shall be assigned to the six remaining city commission members by lottery system administered by the city clerk. Thereafter, the appointments shall be as specified in paragraph (b) below. who shall be appointed by the city commission. Appointments shall be made for a term of two years. and shall be made on a staggered basis of no more than two appointments per year. The city commission may appoint two alternate members to serve at meetings of the historic architectural review commission when the absence of a regular member occurs. Appointments to replace a vacating member shall be for the unexpired term of the member. Historic architectural review commission members may be reappointed at the expiration of their term.

(b) The mayor and each city commissioner shall appoint one member of the historic architectural review commission. The mayor

~~shall nominate candidates and the city commission shall appoint members from lists of nominees provided by the Key West Art and Historical Society, Old Island Restoration Foundation and the Historic Florida Keys Foundation, unless the mayor finds that an unlisted nominee is better qualified. One member shall be appoint~~  
an architect registered in the United States, preferably retired or not practicing in the city. Three members in addition to the mayor's architectural appointment shall be professionals in historic preservation related disciplines. More than two professionals in the same discipline in historic preservation can be members of the commission. Where possible, other members shall have experience, expertise or demonstrated interest in one of the following areas: architecture, history, architectural history, archaeology, urban planning, historic preservation, real estate, law, cultural anthropology, or building construction. Preference in all appointments shall be given to professionals or laymen who have demonstrated interest, competence or knowledge in historic preservation. Professional members shall be from the historic preservation related disciplines of architecture, history, architectural history, planning, archaeology, or other related disciplines such as urban planning, American studies, American civilization, cultural geography or cultural anthropology. The city commission may evaluate applicants by using the Florida Certified Local Government Guidelines, a copy of which shall be

maintained in the office of the city clerk. Additionally, the mayor shall designate a liaison to the historic architectural review commission from among the city commissioners.

(c) All members shall serve at the pleasure of the city commission and may be removed by majority vote of its full membership. If a member is absent from two of three consecutive regular meetings without cause and without prior approval of the chairperson, the historic architectural review commission shall declare the member's office vacant, and the chairperson shall notify the city commissioner responsible for that seat that the member's office is vacant. All provisions of division 2 of article V of chapter 2 are applicable to members of the historic architectural review commission.

Section 2: That section 90-128 of the code of ordinances is hereby amended as follows:

**Sec. 90-128. - Vacancies.**

Vacancies in the membership of the historic architectural review commission, including those representing expired terms, shall if possible be filled within 60 days by ~~the mayor with the advice and consent of the city commission~~ relevant appointing city commissioner or mayor. If the vacancy is not filled within the period, the city may apply to the state historic preservation officer for an extension of up to an additional 60 days.

Section 3: That section 90-135 of the code of ordinances is hereby amended as follows:

Sec. 90-135. - Quorum.

Three ~~Four~~ members of the historic architectural review commission shall constitute a quorum for the transaction of business.

Section 4: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 6: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held  
this 19th day of July, 2011.

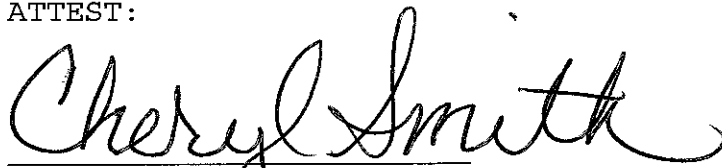
Read and passed on final reading at a regular meeting held  
this 2nd day of August, 2011.

Authenticated by the presiding officer and Clerk of the  
Commission on 4th day of August, 2011.

Filed with the Clerk August 4, 2011.

  
CRAIG CATES, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK

STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS

In re: LAND DEVELOPMENT  
REGULATIONS ADOPTED BY  
CITY OF KEY WEST ORDINANCE  
NO. 11-10

2011 OCT -3 AM 8:16  
CITY OF KEY WEST  
FLORIDA

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FINAL ORDER

The Department of Community Affairs (the "Department") hereby issues its Final Order, pursuant to §§ 380.05(6) and (11), Fla. Stat., (2010), approving a land development regulation adopted by a local government within the City of Key West Area of Critical State Concern as set forth below.

FINDINGS OF FACT

1. The City of Key West is a designated area of critical state concern.
2. On September 13, 2011 the Department received for review City of Key West Ordinance No. 11-10, which was adopted by the City of Key West City Commission on August 4, 2011, ("Ord. 11-10").
3. The purpose of Ord. 11-10 is to amend Chapter 90 of the Code of Ordinances entitled Administration by amending Section 90-127, Membership, Terms and Removal; Section 90-128, Vacancies; and Section 90-135, Quorum. The proposed amendments to the code will add additional members to the historic architectural review commission increasing the membership from five to seven members. The membership will be appointed by each elected City Commissioner and the Mayor may appoint an Architect.
4. Ord. 11-10 is consistent with the City's Comprehensive Plan: Objective 1-2.3 which requires the preservation of historic resources and requires review of all proposals within the areas designated for historic preservation on the Future Land Use Map.

CONCLUSIONS OF LAW

5. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern based upon



consistency with the Principles for Guiding Development applicable to that area of critical state concern. §§ 380.05(6) and 380.05(11), Fla. Stat., (2010).

6. The City of Key West is an Area of Critical State Concern. § 380.05, Fla. Stat. (2010) and Rule 28-36.001, Fla. Admin. Code.

7. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. § 380.031(8), Fla. Stat. (2010). The regulations adopted by Ord. 11-10 are land development regulations.

8. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for the particular area (the "Principles"). § 380.05(6), Fla. Stat.; see *Rathkamp v. Department of Community Affairs*, 21 F.A.L.R. 1902 (Dec. 4, 1998), *aff'd.*, 740 So. 2d 1209 (Fla. 3d DCA 1999). The Principles for the City of Key West Area of Critical State Concern are set forth in Rule 28-36.003(1), Fla. Admin. Code.

9. The above identified portions of Ord. 11-10 are consistent the following Principles:

(a) Strengthen local government capabilities for managing land use and development.

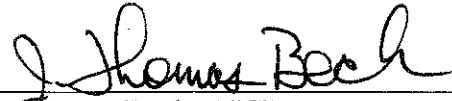
(d) Protection of scenic resources of the City of Key West and promotion of the management of unique tropical vegetation.

(e) Protection of the historical heritage of Key West and the Key West Historical Preservation District.

10. WHEREFORE, IT IS ORDERED that Ord. 11-10 is found to be consistent with the Principles for Guiding Development of the City of Key West Area of Critical State Concern, and is hereby APPROVED.

This Order becomes effective 21 days after publication in the Florida Administrative Weekly unless a petition is filed as described below.

DONE AND ORDERED in Tallahassee, Florida.



J. Thomas Beck, AICP  
Director, Division of Community Planning  
Department of Community Affairs  
2555 Shumard Oak Boulevard  
Tallahassee, Florida 32399-2100

NOTICE OF ADMINISTRATIVE RIGHTS

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, REGARDING THE AGENCY'S ACTION. DEPENDING UPON WHETHER YOU ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT IN YOUR PETITION REQUESTING AN ADMINISTRATIVE PROCEEDING, YOU ARE ENTITLED TO EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING.

IF YOUR PETITION FOR HEARING DOES NOT ALLEGE ANY DISPUTED ISSUE OF MATERIAL FACT CONTAINED IN THE DEPARTMENT'S ACTION, THEN THE ADMINISTRATIVE PROCEEDING WILL BE AN INFORMAL ONE, CONDUCTED PURSUANT TO SECTIONS 120.569 AND 120.57(2) FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND III, FLORIDA ADMINISTRATIVE CODE. IN AN INFORMAL ADMINISTRATIVE PROCEEDING, YOU MAY BE REPRESENTED BY COUNSEL OR BY A QUALIFIED REPRESENTATIVE, AND YOU MAY PRESENT WRITTEN OR ORAL EVIDENCE IN OPPOSITION TO THE DEPARTMENT'S ACTION OR REFUSAL TO ACT; OR YOU MAY EXERCISE THE OPTION TO PRESENT A WRITTEN STATEMENT CHALLENGING THE GROUNDS UPON WHICH THE DEPARTMENT HAS CHOSEN TO JUSTIFY ITS ACTION OR INACTION.

IF YOU DISPUTE ANY ISSUE OF MATERIAL FACT STATED IN THE AGENCY ACTION, THEN YOU MAY FILE A PETITION REQUESTING A FORMAL ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE DIVISION OF ADMINISTRATIVE HEARINGS, PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, AND CHAPTER 28-106, PARTS I AND II, FLORIDA ADMINISTRATIVE CODE. AT A FORMAL ADMINISTRATIVE HEARING, YOU MAY BE REPRESENTED BY COUNSEL OR OTHER QUALIFIED REPRESENTATIVE, AND YOU WILL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE AND ARGUMENT ON ALL THE ISSUES INVOLVED, TO CONDUCT CROSS-EXAMINATION AND SUBMIT REBUTTAL EVIDENCE, TO SUBMIT

PROPOSED FINDINGS OF FACT AND ORDERS, AND TO FILE EXCEPTIONS TO ANY RECOMMENDED ORDER.

IF YOU DESIRE EITHER AN INFORMAL PROCEEDING OR A FORMAL HEARING, YOU MUST FILE WITH THE AGENCY CLERK OF THE DEPARTMENT OF COMMUNITY AFFAIRS A WRITTEN PLEADING ENTITLED, "PETITION FOR ADMINISTRATIVE PROCEEDINGS" WITHIN 21 CALENDAR DAYS OF PUBLICATION OF THIS NOTICE. A PETITION IS FILED WHEN IT IS RECEIVED BY THE AGENCY CLERK, IN THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL, 2555 SHUMARD OAK BOULEVARD, TALLAHASSEE, FLORIDA 32399-2100.

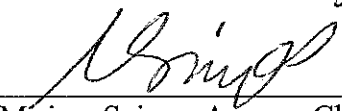
THE PETITION MUST MEET THE FILING REQUIREMENTS IN RULE 28-106.104(2), FLORIDA ADMINISTRATIVE CODE. IF AN INFORMAL PROCEEDING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.301, FLORIDA ADMINISTRATIVE CODE. IF A FORMAL HEARING IS REQUESTED, THEN THE PETITION SHALL BE SUBMITTED IN ACCORDANCE WITH RULE 28-106.201(2), FLORIDA ADMINISTRATIVE CODE.

A PERSON WHO HAS FILED A PETITION MAY REQUEST MEDIATION. A REQUEST FOR MEDIATION MUST INCLUDE THE INFORMATION REQUIRED BY RULE 28-106.402, FLORIDA ADMINISTRATIVE CODE. CHOOSING MEDIATION DOES NOT AFFECT THE RIGHT TO AN ADMINISTRATIVE HEARING.

YOU WAIVE THE RIGHT TO AN INFORMAL ADMINISTRATIVE PROCEEDING OR A FORMAL HEARING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 DAYS OF PUBLICATION OF THIS FINAL ORDER.

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the persons listed below by the method indicated this 21 day of September, 2011.

  
\_\_\_\_\_  
Miriam Snipes, Agency Clerk

By U.S. Mail:

The Honorable Craig Cates  
Mayor, City of Key West  
P.O. Box 1409  
Key West, Florida 33041

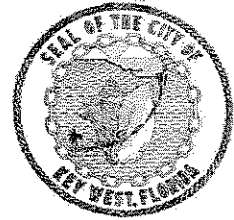
Cheryl Smith  
Clerk to the City Commission  
P.O. Box 1409  
Key West, Florida 33041

Don Craig  
Planning Director  
City of Key West  
P.O. Box 1409  
Key West, Florida 33041

Larry Erskine  
City Attorney  
P.O. Box 1409  
Key West, FL 33041

By Hand Delivery or Interagency Mail:

Rebecca Jetton, ACSC Administrator, DCA Tallahassee  
Richard E. Shine, Assistant General Counsel, DCA Tallahassee



## EXECUTIVE SUMMARY

**To:** Jim Scholl, City Manager

**Through:** Donald Leland Craig, AICP, Planning Director

**From:** Enid Torregrosa, Historic Preservation Planner

**Meeting Date:** July 19, 2011

**RE:** AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" BY AMENDING SECTIONS 90-127, 90-128, AND 90-135 TO PROVIDE FOR MODIFICATION OF HISTORIC ARCHITECTURAL REVIEW COMMISSION MEMBERSHIP REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

### ACTION STATEMENT:

Request: Amendments to HARC membership

Location: City wide

**BACKGROUND:** Commissioner Gibson has requested changes to the ordinance governing the membership of the Historic Architectural Review Commission (HARC) to modify the number and method of appointment and qualifications of the membership.

Modifications to the ordinance fall into three main areas:

1. HARC will consist of seven, not five (with two alternates) members. The mayor and each commissioner will appoint a member. The mayor will retain appointment responsibilities for the HARC architect, and the six commissioners will appoint members. Three of the members appointed by city commissioners shall be professionals in historic preservation related disciplines. Laymen members shall have demonstrated interest, competence or knowledge in historic preservation.
2. Members can be residents, business owners or employees within the city and the area of their residency shall be limited to the lower keys, from Key West to Big Coppitt Key.
3. The description of historic preservation-related disciplines has been updated to be consistent with the Florida Certified Local Government Guidelines (based on the Secretary of Interior's Historic Preservation Professional Qualification Standards).

The changes are generally intended to strengthen the relationship between HARC and the city commission and to provide for a more qualified board membership.

**Previous City Actions:** The Planning Board recommended approval of the draft ordinance on June 29, 2011.

**Process:** The ordinance will require two City Commission readings for adoption. Absent any appeals, the ordinance will be rendered to the DCA, who will have 60 days to issue an order of consistency. A draft and the final version of the ordinance will be sent to the State of Florida Department of State Division of Historical Resources as required by the city's Certified Local Government Agreement.

**Review Criteria:** Section 90-522 of the Code outlines key review criteria for any changes to the Land Development Regulations. A review of the proposed ordinance relative to the criteria is provided below.

**Sec. 90-522. Planning Board review of proposed changes in land development regulations.**

(a) The planning board, regardless of the source of the proposed change in the land development regulations, shall hold a public hearing thereon with due public notice. The planning board shall consider recommendations of the city planner, city attorney, building official and other information submitted at the scheduled public hearing. The planning board shall transmit a written report and recommendation concerning the proposed change of zoning to the city commission for official action. In its deliberations the planning board shall consider the criteria stated in section 90-521.

The Planning Board staff report and associated resolution constitute the review as required under this subsection.

**Sec. 90-521. Criteria for approving amendments to official zoning map.**

In evaluating proposed changes to the official zoning map, the city shall consider the following criteria:

(1) *Consistency with plan.* Whether the proposal is consistent with the comprehensive plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

The Historic Preservation Sub-Element of the City's Comprehensive Plan includes language regarding HARC and its role in implementing historic preservation objectives and policies. HARC is specifically described below:

- **OBJECTIVE 1-2.3: MANAGING OLD TOWN REDEVELOPMENT AND PRESERVATION OF HISTORIC RESOURCES.** Areas delineated on the Future

Land Use Map for historic preservation shall be planned and managed using a regulatory framework designed to preserve the form, function, image, and ambiance of the historic Old Town. The City's Historic Architectural Review Commission (HARC), in addition to the Planning Board, shall review all development proposals within the historic area designated by the National Register of Historic Places. The land development regulations shall be amended upon plan adoption to incorporate design guideline standards recently adopted by HARC.

Although HARC membership details are not addressed in the Comprehensive Plan, improving the responsiveness and qualifications of members will better implement historic preservation in the city.

Because the proposed ordinance does not impact density or intensity, it will have no impact on minimum levels of service or concurrency determinations as established by the Comprehensive Plan.

**(2) *Conformance with requirements.* Whether the proposal is in conformance with all applicable requirements of the Code of Ordinances.**

The proposed ordinance is in conformance with applicable requirements of the Land Development Regulations.

**(3) *Changed conditions.* Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed rezoning.**

There are no changed conditions or regulations associated with the ordinance.

**(4) *Land use compatibility.* Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved.**

The proposed ordinance will have no direct impact on land uses. It is expected to improve the operations of the commission charged with implementing historic preservation.

**(5) *Adequate public facilities.* Whether, and the extent to which, the proposal would result in demands on public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including transportation, water and wastewater services, solid waste disposal, drainage, recreation, education, emergency services, and similar necessary facilities and services. Rezoning does not constitute a concurrency determination, and the applicant will be required to obtain a concurrency determination pursuant to chapter 94.**

The proposed ordinance is intended to address HARC membership and will have no impact on concurrency requirements or the provision of public facilities.

**(6) *Natural environment.* Whether, and to the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetlands protection, preservation of groundwater aquifer, wildlife habitats, and vegetative communities.**

The proposed ordinance is intended to address HARC membership and will have no impact on natural resource protection.

**(7) *Economic effects.* Whether, and the extent to which, the proposal would adversely affect the property values in the area or the general welfare.**

This proposal is not expected to have an adverse effect on the property values in the area or upon the general welfare. Actions which are intended to protect the historic fabric tend to maintain and increase property values, since historic districts and buildings are unique and be likely to have higher real estate values than the rest of the City.

**(8) *Orderly development.* Whether the proposal would result in an orderly and compatible land use pattern. Any negative effects on such pattern shall be identified.**

The proposed ordinance is intended to address HARC membership and will have no direct impact on land use.

**(9) *Public interest; enabling act.* Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and interest of the land development regulations in this subpart B and the enabling legislation.**

The proposed ordinance appears to support the public interest and is in harmony with the purpose and intent of the land development regulations.

**(10) *Other matters.* Other matters which the planning board and the city commission may deem appropriate.**

The qualifications and membership of HARC are important to the continued operations of the commission.

**Options/Advantages/Disadvantages:**

**Option 1:** Approve the proposed ordinance.

- 1. Consistency with the City's Strategic Plan, Vision, and Mission:** The Strategic Plan is silent on the issues pertaining to the ordinance.



2. **Financial Impact:** The proposed ordinance will not have any financial impact to the city.

**Option 2:** Do not approve the proposed ordinance.

1. **Consistency with the City's Strategic Plan, Vision, and Mission:** The Strategic Plan is silent on the issues pertaining to the ordinance.
2. **Financial Impact:** There is no direct financial impact to the city if the ordinance is not adopted.

### **Recommendation**

The Planning Department recommends **approval** of Option 1.

**RESOLUTION NUMBER 2011-029**

**A RESOLUTION OF THE KEY WEST PLANNING BOARD  
RECOMMENDING APPROVAL OF AN ORDINANCE OF  
THE CITY OF KEY WEST, FLORIDA, AMENDING  
CHAPTER 90 OF THE CODE OF ORDINANCES  
ENTITLED "ADMINISTRATION" TO PROVIDE FOR  
MODIFICATION OF THE MEMBERSHIP AND  
MEMBERSHIP REQUIREMENTS OF THE HISTORIC  
ARCHITECTURAL REVIEW COMMISSION BY  
AMENDING SECTION 90-127, MEMBERSHIP, TERMS  
AND REMOVAL; SECTION 90-128, VACANCIES, AND 90-  
135 QUORUM; PROVIDING FOR SEVERABILITY;  
PROVIDING FOR REPEAL OF INCONSISTENT  
PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Planning Department prepared an amendment to the Land Development Regulations to provide for consistent noticing of applications heard by the Historic Architectural Review Commission;

WHEREAS, the Planning Board held a noticed public hearing on June 29, 2011, where based on the consideration of recommendations by the city planner, city attorney, building official and other information, the Board recommended approval of the proposed amendments; and

WHEREAS, the Planning Board determined that the proposed amendments: are consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property



Chairman



Planning Director

values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest.

**BE IT RESOLVED** by the Planning Board of the City of Key West, Florida:

**Section 1.** That the above recitals are incorporated by reference as if fully set forth herein.

**Section 2.** That AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES ENTITLED "ADMINISTRATION" TO PROVIDE FOR MODIFICATION OF THE MEMBERSHIP AND MEMBERSHIP REQUIREMENTS OF THE HISTORIC ARCHITECTURAL REVIEW COMMISSION BY AMENDING SECTION 90-127, MEMBERSHIP, TERMS AND REMOVAL; SECTION 90-128, VACANCIES, AND 90-135 QUORUM; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE is hereby recommended for approval; a copy of the draft ordinance is attached.

**Section 3.** This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a special meeting held this 29th day of June, 2011.

 Chairman  
 Planning Director

Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klittenick - Chairman  
Key West Planning Board

7/20/11  
Date

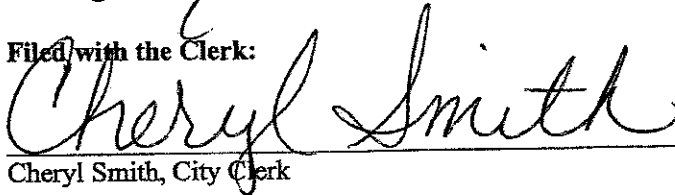
Attest:



Donald Leland Craig, AICP  
Planning Director

7/20/11  
Date

Filed with the Clerk:



Cheryl Smith, City Clerk

7-20-11  
Date



Chairman



Planning Director

ORDINANCE NO. \_\_\_\_\_

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WHEREAS, Section 90-517 of the Code of Ordinances allows the City Commission to amend the text of the land development regulations in accordance with certain procedures and criteria; and

WHEREAS, the Planning Board held a noticed public hearing on \_\_\_\_\_, and based on the consideration of recommendations by the City planner, city attorney, building official and other information, recommended approval of the proposed amendments herein; and

WHEREAS, the City Commission held a noticed public hearing on \_\_\_\_\_ and in its deliberations considered the criteria identified in section 90-521 of the Code of Ordinances; and

WHEREAS, the City Commission has determined that the proposed amendments are consistent with the Comprehensive Plan; in conformance with all applicable requirements of the Code of Ordinances; are stimulated by changed conditions after the effective date of the existing regulation; will promote land use

compatibility; will not result in additional demand on public facilities; will have no impact on the natural environment; will not negatively impact property values or the general welfare; will result in more orderly and compatible land use patterns; and are in the public interest; and

WHEREAS, the City Commission has determined that it is in the best interests of its citizens and visitors alike to have a minimum of four professional members and to increase the regular membership of the historical architectural review commission from five members to seven.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That section 90-127 90 of the Code of Ordinances is hereby amended as follows\*:

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(a) The historic architectural review commission shall consist of ~~five~~ seven residents of the city or who shall have a

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business, employment or profession located in the city and reside in the lower keys from Key West to Big Coppitt Key. Members of the historic architectural review commission shall maintain their qualifications consistent with this section for the duration of their membership. The members serving on the historic architectural review commission upon adoption of this ordinance shall continue in office, subject to the other provisions in this code until the expiration of their term. Except for the mayoral architectural appointment, the four current remaining regular seats and the two current alternate seats shall be assigned to the six remaining city commission members by lottery system administered by the city clerk. Thereafter, the appointments shall be as specified in paragraph (b) below. ~~who shall be appointed by the city commission.~~ Appointments shall be made for a term of two years. ~~and shall be made on a staggered basis of no more than two appointments per year. The city commission may appoint two alternate members to serve at meetings of the historic architectural review commission when the absence of a regular member occurs.~~ Appointments to replace a vacating member shall be for the unexpired term of the member. Historic architectural review commission members may be reappointed at the expiration of their term.

(b) The mayor and each city commissioner shall appoint one member of the historic architectural review commission. The mayor

~~shall nominate candidates and the city commission shall appoint members from lists of nominees provided by the Key West Art and Historical Society, Old Island Restoration Foundation and the Historic Florida Keys Foundation, unless the mayor finds that an unlisted nominee is better qualified. One member shall be appoint~~  
an architect registered in the United States, preferably retired or not practicing in the city. Three members in addition to the mayor's architectural appointment shall be professionals in historic preservation related disciplines. More than two professionals in the same discipline in historic preservation can be members of the commission. Where possible, other members shall have experience, expertise or demonstrated interest in one of the following areas: architecture, history, architectural history, archaeology, urban planning, historic preservation, real estate, law, cultural anthropology, or building construction. Preference in all appointments shall be given to professionals or laymen who have demonstrated interest, competence or knowledge in historic preservation. Professional members shall be from the historic preservation related disciplines of architecture, history, architectural history, planning, archaeology, or other related disciplines such as urban planning, American studies, American civilization, cultural geography or cultural anthropology. The city commission may evaluate applicants by using the Florida Certified Local Government Guidelines, a copy of which shall be



maintained in the office of the city clerk. Additionally, the mayor shall designate a liaison to the historic architectural review commission from among the city commissioners.

(c) All members shall serve at the pleasure of the city commission and may be removed by majority vote of its full membership. If a member is absent from two of three consecutive regular meetings without cause and without prior approval of the chairperson, the historic architectural review commission shall declare the member's office vacant, and the chairperson shall notify the city commissioner responsible for that seat that the member's office is vacant. All provisions of division 2 of article V of chapter 2 are applicable to members of the historic architectural review commission.

Section 2: That section 90-128 of the code of ordinances is hereby amended as follows:

**Sec. 90-128. - Vacancies.**

Vacancies in the membership of the historic architectural review commission, including those representing expired terms, shall if possible be filled within 60 days by ~~the mayor with the advice and consent of the city commission~~ relevant appointing city commissioner or mayor. If the vacancy is not filled within the period, the city may apply to the state historic preservation officer for an extension of up to an additional 60 days.

Section 3: That section 90-135 of the code of ordinances is hereby amended as follows:

Sec. 90-135. - Quorum.

~~Three~~ Four members of the historic architectural review commission shall constitute a quorum for the transaction of business.

Section 4: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 6: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Read and passed on final reading at a regular meeting held  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Authenticated by the presiding officer and Clerk of the  
Commission on \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Filed with the Clerk \_\_\_\_\_, 2011.

\_\_\_\_\_  
CRAIG CATES, MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK